RECORD AND BRIEFS

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In the Supreme Court of the United States

STATE OF TEXAS, PLAINTIFF

v.

STATE OF NEW MEXICO
AND
STATE OF COLORADO

ON BILL OF COMPLAINT

BRIEF FOR THE UNITED STATES IN OPPOSITION TO EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1'S MOTION FOR LEAVE TO INTERVENE

DONALD B. VERRILLI, JR.
Solicitor General
Counsel of Record
JOHN C. CRUDEN
Assistant Attorney General
EDWIN S. KNEEDLER
Deputy Solicitor General
ANN O'CONNELL
Assistant to the Solicitor General
KEITH E. SAXE
JAMES J. DUBOIS
R. LEE LEININGER
STEPHEN M. MACFARLANE
Attorneys

Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

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This action concerns the interpretation of the Rio Grande Compact (Compact), Act of May 31, 1939, ch. 155, 53 Stat. 785, which apportions the water of the Rio Grande Basin among the States of Colorado, New Mexico, and Texas. Preamble, 53 Stat. 785. On January 27, 2014, the Court granted Texas's motion for leave to file a bill of complaint against the States of New Mexico and Colorado. 134 S. Ct. 1050. On March 31, 2014, the Court granted the United States' motion for leave to intervene as a plaintiff. 134 S. Ct. 1783. On April 30, 2014, New Mexico filed a motion to dismiss Texas's complaint and the United States' complaint in intervention. On November 3, 2014, this Court appointed A. Gregory Grimsal as Special Master, with authority to fix the time and conditions for

the filing of additional pleadings, to direct subsequent proceedings, and to submit reports as he deems appropriate. 135 S. Ct. 474.

Two irrigation districts, one in New Mexico and one in Texas, have moved for leave to intervene. On December 3, 2014, Elephant Butte Irrigation District (EBID), an irrigation district in New Mexico, filed a motion for leave to intervene. New Mexico, Texas, and the United States filed briefs opposing EBID's motion. On April 27, 2015, the Court referred EBID's motion to the Special Master. 135 S. Ct. 1914.

On April 22, 2015, El Paso County Water Improvement District No. 1 (EPCWID), an irrigation district in Texas, filed a motion for leave to intervene as a plaintiff, a complaint in intervention, and a memorandum in support of the motion. EPCWID's motion is the subject of this brief. EPCWID is a political subdivision of the State of Texas. Through a contract with the United States, EPCWID delivers water from the United States Bureau of Reclamation's (Reclamation) Rio Grande Project (the Project) to EPCWID members, who are agricultural water users within its service area. In the view of the United States, EPCWID does not satisfy this Court's standard for intervention by a non-State entity and its motion for leave to intervene should therefore be denied.

STATEMENT

1. The Reclamation Act of 1902 provided authorization and funding for irrigation works in various States, including New Mexico. See Act of June 17, 1902 (1902 Act), ch. 1093, 32 Stat. 388. In 1905, Congress extended the 1902 Act to "the portion of the State of Texas bordering upon the Rio Grande" that could be irrigated by water from the proposed reser-

voir at Elephant Butte. See Act of Feb. 25, 1905, ch. 798, 33 Stat. 814. Construction of the Project began in 1910. Elephant Butte Reservoir, the largest storage facility in the Project, was completed in 1916. Nat'l Res. Comm., *Regional Planning, Part VI—The Rio Grande Joint Investigation in the Upper Rio Grande Basin in Colorado, New Mexico, and Texas, 1936-1937*, at 73, 83 (Feb. 1938) (*Joint Investigation*). Elephant Butte Reservoir is in New Mexico, approximately 105 miles north of the Texas border.

In 1906, Reclamation entered into contracts with two irrigation districts: the entities now known as EBID in New Mexico, and EPCWID in Texas. Those contracts provide for the irrigation of approximately 155,000 acres of land—67,000 acres in Texas, and 88,000 acres in New Mexico. *Joint Investigation* 73, 83. Those acreages were confirmed in a contract between EBID and EPCWID that was signed on February 16, 1938. See U.S. Br. in Opp. to N.M. Mot. to Dismiss App. 1a-4a. Those proportions are roughly equivalent to 43% for EPCWID in Texas and 57% for EBID in New Mexico.

The Project also delivers water to Mexico pursuant to the Convention Between the United States and Mexico Providing for the Equitable Distribution of the Waters of the Rio Grande for Irrigation Purposes, May 21, 1906, U.S.-Mex., 34 Stat. 2953. Except during extraordinary drought, the treaty guarantees to Mexico 60,000 acre-feet of water per year delivered from the Project. *Id.* arts. I & II, 34 Stat. 2953-2954.

Today, Reclamation continues to calculate diversion allocations under the Project pursuant to the treaty and the 1938 contract between EBID and EPCWID, and also pursuant to a settlement agree-

ment entered into by Reclamation, EBID, and EPCWID. See Bureau of Reclamation, U.S. Dep't of the Interior, *Operating Agreement for the Rio Grande Project* (Mar. 10, 2008) (2008 Operating Agreement), http://www.usbr.gov/uc/albuq/rm/RGP/pdfs/OperatingAgreement2008.pdf. Under the 2008 Operating Agreement, Reclamation uses a regression analysis showing how much water should be available for delivery, accounting for "return flows," from a given volume of water released from Project storage based on 1951-1978 hydrological conditions. See Bureau of Reclamation, U.S. Dep't of the Interior, *Supplemental Environmental Assessment: Implementation of the Rio Grande Project Operating Procedures, New Mexico and Texas* 3-7, 12 (June 21, 2013), http://www.usbr.gov/uc/albuq/envdocs/ea/riogrande/op-Proced/Supplemental/Final-SuppEA.pdf. After subtracting Mexico's share of the water, Reclamation assigns 43% of the available water to EPCWID and 57% of the water to EBID. *Id.* at 13-14, 18.

On March 18, 1938, the parties signed the Compact, and Congress approved the Compact the following year. 53 Stat. 785. Article IV of the Compact required New Mexico to deliver water at San Marcial, New Mexico—a gauging station upstream of Elephant Butte Reservoir—in an amount that is determined by a schedule. 53 Stat. 788. In 1948, the Rio Grande Compact Commission changed the gauge for measuring New Mexico's delivery obligation from San Marcial to Elephant Butte Reservoir. Tex. Compl. para. 13; N.M. Br. in Opp. 1 n.1. Once the water is delivered by New Mexico to Elephant Butte Reservoir (*i.e.*, into "[p]roject [s]torage" for purposes of the Compact, Art. I(k), 53 Stat. 786), it becomes "[u]sable [w]ater" under

the Compact, to be released by the Project "in accordance with irrigation demands, including deliveries to Mexico." Art. I(*l*), 53 Stat. 786.

2. In its complaint, Texas contends that once New Mexico delivers water to Elephant Butte Reservoir as required by Article IV of the Compact, the water "is allocated and belongs to Rio Grande Project beneficiaries in southern New Mexico and in Texas" and is to be distributed by the Project according to federal contracts. Tex. Compl. para. 4. Texas alleges that, contrary to that allocation, New Mexico has "increasingly allowed the diversion of surface water, and has allowed and authorized the extraction of water from beneath the ground," downstream of Elephant Butte Reservoir in New Mexico. *Id.* para. 18.

After the Court granted Texas leave to file its complaint, the United States filed a motion for leave to intervene as a plaintiff, a proposed complaint in intervention, and a memorandum in support of the motion. In those documents, the United States described several distinct federal interests that are at stake in this dispute over the interpretation of the Compact: (1) the parties' dispute concerns water released from a federal project for which Reclamation sets the diversion allocations for the irrigation districts downstream of Elephant Butte Reservoir; (2) the United States has an interest in ensuring that New Mexico water users who do not have contracts with the Secretary of the Interior (Secretary) for delivery of Project water, or who use Project water in excess of contractual amounts, do not intercept Project water or interfere with delivery of that water to other Project beneficiaries; and (3) the United States has an interest in ensuring that New Mexico water users downstream of

Elephant Butte Reservoir do not intercept or interfere with the delivery of Project water to Mexico pursuant to the international treaty obligation of the United States. See U.S. Mem. in Supp. 5-8.

New Mexico filed a motion to dismiss the complaints filed by Texas and the United States, in the nature of a motion under Federal Rule of Civil Procedure 12(b)(6). New Mexico contends (Mot. to Dismiss 27-39) that the complaints fail to state a claim upon which relief can be granted because no Compact provision prohibits New Mexico from interfering with Project deliveries to Texas water users after New Mexico delivers water to Elephant Butte Reservoir. New Mexico further contends that the Project's water rights below Elephant Butte Reservoir are controlled by state law (*id.* at 48-58), and that any remedy for interference with Project deliveries on the part of New Mexico water users therefore must be left to a state-law suit brought by the United States against any offending water users (*id.* at 37-39, 59-61).

3. On April 22, 2015, EPCWID filed, in this Court, a motion for leave to intervene as a plaintiff. EPCWID is a political subdivision of the State of Texas. It is a general law water improvement district, created under Texas law, with authority to provide for irrigation of the land within its boundaries and to cooperate with Reclamation for purposes of operating and maintaining federal Reclamation facilities within its boundaries. Tex. Water Code Ann. § 55.161(a) and (c) (West 2002); see Tex. Const. art. XVI, § 59(b).

EPCWID contends (Mem. in Supp. 14-23) that it has a compelling interest in its own right, distinct from its interest in a "class" with other Texas entities, to warrant intervention as an independent party in

this original action. EPCWID maintains that it has a "direct stake" in ensuring that the Compact is enforced because it has a contract with the United States to receive Project water, and it has contractual obligations to deliver water to end users in Texas. *Id.* at 14-17, 19-23. EPCWID contends that its interests are "bi-state" in nature because it has rights to store and release water in New Mexico, and the Project's irrigation infrastructure "crisscrosses" the state line to provide Project water to irrigators in both New Mexico and Texas. *Id.* at 17-18.

EPCWID further contends (Mem. in Supp. 23-27) that its interests are not adequately represented by the existing parties. EPCWID explains that, although it has a shared interest with Texas "in ensuring New Mexico complies with its Compact obligations," the rights and interests of EPCWID and Texas are "not identical." *Id.* at 24. In particular, EPCWID contends that, because Texas is not a "specific beneficiary" of the Project or a party to the 1938 contract dividing the Project's water supply between EPCWID and EBID, and because Texas has not expressed an intention to defend the 1938 contract or the 2008 Operating Agreement, Texas cannot fully represent EPCWID's contractual rights to receive Project water. *Id.* at 24-25.

EPCWID likewise contends (Mem. in Supp. 26-27) that its interests are not adequately represented by the United States. As EPCWID sees it, the United States' interests are "in the Project as a whole," whereas EPCWID "has direct interests with respect to ensuring receipt and delivery of Project water." *Id.* at 26. EPCWID points out that it has disagreed with the United States in the past on the proper allocation

of water from the Project, which prompted its 2007 complaint against Reclamation that resulted in the 2008 Operating Agreement. *Id.* at 27. EPCWID states that it "must independently protect its interests" under that agreement. *Ibid.*

ARGUMENT

This Court has held that "[a]n intervenor whose state is already a party * * * ha[s] the burden of showing some compelling interest in [its] own right, apart from [its] interest in a class with all other citizens and creatures of the state, which interest is not properly represented by the state." *New Jersey* v. *New York*, 345 U.S. 369, 373 (1953) (per curiam). The standard for intervention in original cases by non-State entities "is high—and appropriately so," because original actions "tax the limited resources of this Court by requiring [it] 'awkwardly to play the role of factfinder,'" and because "respect for sovereign dignity" of the States, which "represent[] the interests of [their] citizens in an original action," "counsels in favor of restraint" in allowing non-State entities to intervene. *South Carolina* v. *North Carolina*, 558 U.S. 256, 267 (2010) (citation omitted). EPCWID has identified no compelling interest to justify its participation as an independent party in this dispute that is not adequately represented by the existing sovereign parties.

1. a. EPCWID contends (Mem. in Supp. 13-17) that it has a "direct stake" in ensuring that the Compact is enforced because it has a contract with the United States to receive Project water, and it has contractual obligations to deliver water to end users in Texas. The Court has previously allowed non-State entities to intervene in original actions based on a

"direct stake" in the outcome of the case. See, *e.g.*, *Maryland* v. *Louisiana*, 451 U.S. 725, 745 n.21 (1981) (permitting private corporations to intervene in an original action challenging a State's imposition of a tax); *Texas* v. *Louisiana*, 426 U.S. 465, 466 (1976) (per curiam) (permitting a municipality to intervene in a sovereign boundary dispute). The Court recently has stated, however, that "a compelling reason for allowing citizens to participate in one original action is not necessarily a compelling reason for allowing citizens to intervene in all original actions," and the Court reaffirmed in a case involving a dispute over an interstate water resource that the standard set forth in *New Jersey* v. *New York* applies. See *South Carolina* v. *North Carolina*, 558 U.S. at 265. A proposed intervenor whose State is already a party must show a compelling interest, distinct from other "citizens and creatures of" the State, that is not properly represented by the State. *Id.* at 266 (citation omitted); see *Nebraska* v. *Wyoming*, 515 U.S. 1, 21-22 (1995); *United States* v. *Nevada*, 412 U.S. 534, 538 (1973) (per curiam); *Illinois* v. *City of Milwaukee*, 406 U.S. 91, 96-97 (1972). Accordingly, EPCWID's "direct stake" in the outcome of this dispute does not, without more, warrant intervention.

b. EPCWID contends (Mem. in Supp. 17-23, 28) that its contracts with the United States to receive Project water and its obligation to deliver Project water to Texas users amount to a unique interest in the case that is distinct from that of other Texas citizens. But EPCWID's contractual rights and obligations are not directly relevant to this dispute over the States' respective rights and obligations under the Compact.

The complaints filed by Texas and the United States seek to establish the sovereign rights among the States, the nature of the apportionment of water agreed to by the States under the Compact, and the rights of the United States on behalf of the Project and under the treaty with Mexico. EPCWID is not a party to the Compact, and it acknowledges (Mem. in Supp. 4, 7-8, 26-27) that the United States operates the Project's dams and reservoirs and determines how much water is allocated to EBID and EPCWID, respectively, pursuant to the 1938 contract and the 2008 Operating Agreement. EPCWID's receipt and delivery of Project water within its service area has no effect on how the water is allocated among the States under the Compact. Those contractual rights and obligations are considered only after the respective rights of the States under the Compact—the subject of this original action—are defined.

2. a. Furthermore, EPCWID is a political subdivision of the State of Texas, created under Texas law, and the area that it serves lies wholly within Texas. Tex. Const. art. XVI, § 59(b); Tex. Water Code Ann. § 55.161 (West 2002). This Court's requirement that an intervenor whose State is already a party must show a compelling interest that "is not properly represented by the state" flows from "the principle that the state, when a party to a suit involving a matter of sovereign interest, must be deemed to represent all its citizens." *New Jersey* v. *New York*, 345 U.S. at 372-373 (citation and internal quotation marks omitted). Treating a State as the representative of its citizens "is a necessary recognition of sovereign dignity" because it prevents a State from being "judicially impeached on matters of policy by its own subjects." *Id.*

at 373. That concern is directly implicated by EPCWID's motion.

i. EPCWID contends (Mem. in Supp. 23-25) that its interests are not adequately represented by Texas because "EPCWID's and Texas' rights and interests are not identical." Specifically, EPCWID contends that: (1) Texas is not a "specific beneficiary" of the Project or a party to the contracts dividing the Project's water supply between EPCWID and EBID (*id.* at 24-25); and (2) Texas has not expressed an intention to defend the 1938 contract or the 2008 Operating Agreement that govern the division of Project water between EBID and EPCWID (*id.* at 25). Those contentions only serve to highlight that Texas is asserting claims in its sovereign capacity under the Compact, while the interests EPCWID attempts to advance in this original action are more akin to private interests in its contracts with the United States and EBID.

Furthermore, EPCWID's views on the 1938 contract and the 2008 Operating Agreement, to the extent they are different from those of Texas, represent the type of "impeach[ment] * * * by its own subjects" that the Court has concluded is undermining of State sovereignty and inadequate to warrant intervention by a wholly intrastate entity. *New Jersey* v. *New York*, 345 U.S. at 373; see *South Carolina* v. *North Carolina*, 558 U.S. at 280 (Roberts, C.J., concurring in the judgment in part and dissenting in part) ("The State must be deemed to represent *all* its citizens, not just those who subscribe to the State's position before this Court.") (citation and internal quotations marks omitted); cf. *United States* v. *Nevada*, 412 U.S. at 539 (in an equitable apportionment action, a State "has the right, *parens patriae*, to represent all the nonfederal

users in its own State insofar as the share allocated to the other State is concerned").

In *South Carolina* v. *North Carolina*, this Court allowed two non-State entities to intervene in an equitable apportionment action, but each of those entities had unique interstate characteristics that are not present here. The Catawba River Water Supply Project (CRWSP) was "an unusual municipal entity, established as a joint venture with the encouragement of regulatory authorities in both States." 558 U.S. at 269. It was a "bistate entity" that was jointly owned and regulated by, and supplied water to, a county in each State, *id.* at 261, and it had "an advisory board consisting of representatives from both counties," "revenue[] from its bistate sales," and "infrastructure and assets that [we]re owned by both counties as tenants-in-common." *Id.* at 269 ("It is difficult to conceive of a more purely bistate entity."). The other entity that was permitted to intervene, Duke Energy, "operate[d] 11 dams and reservoirs in both States that generate[d] electricity for the region and control[led] the flow of the [interstate] river," making it "likely that any equitable apportionment of the river w[ould] need to take into account the amount of water that Duke Energy needs to sustain its operations and provide electricity to the region." *Id.* at 272. Duke Energy also held a license from the Federal Energy Regulatory Commission (FERC) for its hydroelectric facilities, which regulated the flow of the river, and Duke Energy sought to protect a consensus agreement of 70 parties in both States, arrived at in connection with the proposed renewal of Duke Energy's FERC license, regarding appropriate minimum flows. *Id.* at 272-273.

In contrast to the non-State entities that were permitted to intervene in *South Carolina* v. *North Carolina*, EPCWID is an entity that operates only in Texas and manages EPCWID's share of the Project water supply within the State. Tex. Water Code Ann. § 55.161(a) (West 2002) ("A water improvement district may provide for irrigation of the land within its boundaries."). Under Texas law, members of EPCWID's board of directors must be residents of Texas and own land subject to taxation within EPCWID. *Id.* § 55.102. They are elected by voters who hold title to irrigable lands within EPCWID's boundaries. Tex. Spec. Dists. Code Ann. § 9303.051(a)(3) (West 2013). In this respect, EPCWID is analogous to the City of Charlotte, which was denied intervention in *South Carolina* v. *North Carolina* because, unlike CRWSP and Duke Energy, it was a North Carolina entity that fell within the general class of water users in that State, and its interests therefore fell "within the category of interests with respect to which a State must be deemed to represent all of its citizens." 558 U.S. at 274.

EPCWID asserts (Mem. in Supp. 12, 18) that it has bistate interests similar to Duke Energy and CRWSP because it holds decreed rights under Texas law that provide it with "rights of storage and release in New Mexico, and rights of diversion and use in Texas." The certificate of adjudication issued by the Texas Commission on Environmental Quality cited by EPCWID (Mem. in Supp. App. 1-15), however, recognizes that the source of the water that EPCWID is entitled to divert and use in Texas is Project water impounded and released in New Mexico by the United States (not EPCWID). *Id.* at 4-5, 10. And the certifi-

cate does not grant EPCWID any right to store or release Project water in New Mexico. Rather, it gives EPCWID the right to divert and use a portion of the Project water that is stored and released in New Mexico by the United States. *Id.* at 5-6, 10. In any event, a Texas agency could not grant a Texas water improvement district the right to store water in reservoirs located in another State. The authorization to store Project water in reservoirs in New Mexico arises under federal and New Mexico state law pertaining to Reclamation projects.

EPCWID further contends (Mem. in Supp. 18) that its bistate interests include "the complex system of irrigation infrastructure of the interstate Project," owned and operated by EPCWID, which "crisscrosses the state line to provide Project water supply to irrigators in both New Mexico and Texas." The fact that the Project crosses state lines does not amount to a "bistate" interest of EPCWID warranting intervention. Pursuant to a 1980 contract between the United States and EPCWID, the United States agreed to "insure delivery of project water supply allocated to [EPCWID] at [EPCWID] canal headings and other diversion points to be specified by the Contracting Officer, and at State line crossings." App., *infra*, 5a. EPCWID does not receive delivery of Project water in New Mexico. Moreover, in 1996, the United States quitclaimed title to certain Project facilities to EPCWID, but all of those facilities are located in Texas. *Id.* at 9a-35a. Thus, unlike Duke Energy, which operates dams and reservoirs in both South Carolina and North Carolina, EPCWID does not operate any diversion dams in New Mexico. It receives water in Texas after the water flows from New Mexi-

co, and the irrigation district's service area is located entirely within Texas.

ii. To the extent EPCWID contends that it has a unique interest in this case because it is a beneficiary of the Project, see Mem. in Supp. 16, 20-21, 28, the United States has already intervened in this action to protect the Project's water supply from interference by New Mexico. Indeed, EPCWID's complaint, with minor edits to the prayer for relief, simply adopts and incorporates by reference the United States' complaint in intervention. See EPCWID Compl. 1-2. That the United States and EPCWID may have disagreed in the past about how to calculate the 43% to 57% split of Project water between EPCWID and EBID (Mem. in Supp. 27)—a disagreement that gave rise to the 2008 Operating Agreement to which the United States is a signatory—does not mean that the United States cannot adequately represent EPCWID's interest in protecting the Project's overall water supply from interception and interference by New Mexico.

The Court has previously allowed Indian tribes to intervene in an equitable apportionment action, even though the tribes' interests were already protected by the participation of the United States. See *Arizona* v. *California*, 460 U.S. 605, 612-613 (1983). But the Court concluded that the tribes' intervention was warranted because their water rights would be defined by the litigation, and the tribes, as sovereign entities, were entitled to "take their place as independent qualified members of the modern body politic." *Id.* at 614-615 (citation omitted). EPCWID, in contrast, is not a sovereign entity. See *Nebraska* v. *Wyoming*, 515 U.S. at 22 ("[W]ater disputes among

States may be resolved * * * without the participation of individual claimants, who nonetheless are bound by the result reached through representation by their respective States."). Neither of the decisions EPCWID relies upon in support of intervention notwithstanding the presence of the United States as a party, see Mem. in Supp. 27 (citing *WildEarth Guardians* v. *United States Forest Serv.*, 573 F.3d 992, 996-997 (10th Cir. 2009), and *South Dakota* v. *Ubbelohde*, 330 F.3d 1014, 1025 (8th Cir. 2003), cert. denied, 541 U.S. 987 (2004)), involved disputes implicating the "respect for sovereign dignity" of the States, which must be deemed to "represent[] the interests of [their] citizens in an original action." *South Carolina* v. *North Carolina*, 558 U.S. at 267.

b. In addition to affording proper respect to the dignity of state sovereignty, treating a State as the representative of its citizens is also a "rule for good judicial administration," because "[o]therwise, * * * there would be no practical limitation on the number of citizens * * * who would be entitled to be made parties." *New Jersey* v. *New York*, 345 U.S. at 373.

Even assuming that Compact enforcement actions such as this could be litigated manageably with an expanded number of parties, the expansion could make it significantly less likely that any of these cases of interstate sovereignty could be resolved through negotiation. This Court has repeatedly stated that the preferred approach for resolving interstate water disputes "should, if possible, be the medium of settlement, instead of invocation of [this Court's] adjudicatory power." *Colorado* v. *Kansas*, 320 U.S. 383, 392 & n.4 (1943); see *Hinderlider* v. *La Plata River & Cherry Creek Ditch Co.*, 304 U.S. 92, 105-106 & n.11 (1938).

The participation of more parties, particularly parties that advance narrower interests that may conflict with the goals of their States, could impede that goal. See *South Carolina* v. *North Carolina*, 558 U.S. at 288 (Roberts, C.J., concurring in the judgment in part and dissenting in part) ("[I]ntervention makes settling a case more difficult, as a private intervenor has the right to object to a settlement agreement between the States, if not the power to block a settlement altogether.").

3. To the extent EPCWID has views on the issues in this original action that are different from those of the parties, it can play an appropriate role in this litigation as an *amicus curiae*. See *Kentucky* v. *Indiana*, 445 U.S. 941 (1980); *United States* v. *California*, 377 U.S. 926 (1964); *New Hampshire* v. *Maine*, 426 U.S. 363, 365 n.2 (1976). EPCWID's views on the relationship between Compact enforcement and Project operations (see Mem. in Supp. 19-23) can be presented to the Special Master and to the Court through the role of an *amicus curiae* without unnecessarily expanding the standard for intervention by non-State entities in original cases to include intrastate actors with no compelling interest that is not already protected by a sovereign party to the dispute.

CONCLUSION

EPCWID's motion for leave to intervene should be denied.

Respectfully submitted.

DONALD B. VERRILLI, JR.
Solicitor General
JOHN C. CRUDEN
Assistant Attorney General
EDWIN S. KNEEDLER
Deputy Solicitor General
ANN O'CONNELL
Assistant to the Solicitor General
KEITH E. SAXE
JAMES J. DUBOIS
R. LEE LEININGER
STEPHEN M. MACFARLANE
Attorneys

JUNE 2015

APPENDIX A

* * * * *

Contract No. 0-07-54-X0904

RIO GRANDE PROJECT
TEXAS—NEW MEXICO

CONTRACT BETWEEN THE

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
WATER AND POWER RESOURCES SERVICE
and the
EL PASO COUNTY WATER IMPROVEMENT
DISTRICT NO. 1
for the
Transfer of the Operation and Maintenance of
Project Works

THIS CONTRACT is made this 14th day of March 1980, in pursuance of the Act of Congress of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto and particularly the Reclamation Project Act of 1939 and Acts of Congress of June 30, 1948 (62 Stat. 1171, 1179); of May 17, 1950 (64 Stat. 163, 176); of September 21, 1959 (73 Stat. 584); of July 14, 1960 (74 Stat. 480, 492); of March 26, 1964 (78 Stat. 171, 172); and of July 27, 1965 (79 Stat. 285), all herein styled the "Federal Reclamation Law," between the UNITED STATES OF AMERICA, herein styled the "United States," acting for this purpose through the Regional Director, Southwest Region, Water and Pow-

er Resources Service (formerly Bureau of Reclamation), herein referred to as "Contracting Officer," and the EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1, herein styled the "District," (a Water Improvement District existing under and by virtue of Article XVI, Section 59, of the Constitution of the State of Texas),

WITNESSETH THAT:

EXPLANATORY RECITALS

WHEREAS, the Rio Grande Project was authorized by Act of Congress in 1905 and subsequent thereto the United States, the District, and the Elephant Butte Irrigation District have entered into a series of contracts relating to the construction, operation and maintenance, and repayment of the costs allocated to the irrigation function of the Rio Grande Project, and

WHEREAS, the series of contracts between the United States and the District includes contracts with the El Paso County Water Improvement District No. 1 dated November 10, 1937, amended October 1, 1939, which contracts cover the care, operation, and maintenance of the project and payment of the adjusted construction obligation allocated to irrigation, and are herein collectively referred to as the "basic repayment contract;" and

WHEREAS, the District has entered into certain contracts for rehabilitation and betterment of the District works, which contracts are dated May 15,

1959; (extended November 16, 1966); and February 12 1971; and

WHEREAS, full repayment to the United States by the District has been made of all construction costs other than those covered by said rehabilitation contracts; and

WHEREAS, the parties desire that the District assume permanent responsibility for operation and maintenance of the District works in the District except certain components thereof as hereinafter more particularly described.

NOW THEREFORE, the parties agree as follows:

DEFINITIONS

1. When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof, the term:

a. "Secretary" or "Contracting Officer" shall mean the Secretary of the Interior of the United States or his duly authorized representative.

b. "District" shall mean the El Paso County Water Improvement District No. 1. In some standard articles, the District is referred to as the "Contractor."

c. "Power and storage reserved works" shall mean the Elephant Butte Dam, Reservoir, and Power System and the Caballo Dam and Reservoir.

d. "Water control and conveyance reserved works" shall mean the Percha, Leasburg, Mesilla, and Riverside Diversion Dams and appurtenances.

e. "Transferred District works" shall mean the remainder of the distribution and drainage system to be turned over to the district for operation and maintenance, more specifically identified on Exhibit "A," attached hereto and by this reference made a part of this contract.

f. "Calendar year" shall mean January 1 through December 31 of each year.

g. "Project Water Supply" shall mean stored water legally available for release in the Elephant Butte and Caballo Reservoirs and including the legally appropriated waters reaching the bed of the Rio Grande River between Caballo Dam and Riverside Diversion Dam.

TRANSFER OF DISTRICT WORKS

2. Effective October 1, 1980, the United States shall transfer to the El Paso County Water Improvement District No. 1 and the District shall assume the operation and maintenance of the transferred District works as identified in paragraph 1.e. above and as shown on Exhibit "A." The United States reserves the right to establish, operate, and maintain hydrological and climatological monitoring devices on or in the transferred District works. Transfer of operation and maintenance of the "transferred District works" to the

District shall be accomplished without expense to the United States. It is understood that the District may contest any expenses incident to such transfer that it feels are inappropriate in nature or amount or inconsistent with the relation of the parties over this agreement or their other existing contracts.

* * * * *

WATER CONTROL

6. a. The United States shall allocate legally available stored project water among Elephant Butte Irrigation District, El Paso County Water Improvement District No. 1, and the Republic of Mexico in accordance with the Rio Grande Project Act of 1905, all applicable Federal Reclamation Laws, the Convention with Mexico For The Upper Rio Grande proclaimed in 1907, all vested rights of the District under all applicable State and Federal law, court decisions, and this contract.

b. The United States will insure delivery of project water supply allocated to the District at District canal headings and other diversion points to be specified by the Contracting Officer, and at State line crossings and will make a prompt accounting of said water deliveries to the District.

c. In interstate canals, laterals, and drains (those physically crossing State lines), the United States reserves the right to direct inter-canal diversions, deliveries, and maintenance of waterways and

structures by the District to assure the delivery of water and protection of lands of the other involved entities outside District boundaries.

d. In case of extraordinary climatic conditions or major accident to the District's distribution facilities, the United States, at its discretion, may adjust spills of allotted water from the District works. The United States will designate respective facilities to be used for spill of such water. A detailed operational plan will be concluded between the United States and the District setting forth procedures for water delivery and accounting.

OPERATION AND MAINTENANCE OF TRANSFERRED WORKS

7. a. The District, without expense to the United States shall care for, operate, and maintain the transferred District works in full compliance with the terms of this contract, and in such manner that said transferred District works will remain in good and efficient condition to perform the carriage, distribution, and drainage of water as well and efficiently as on the date of such transfer to the District.

b. The District shall promptly commence and diligently prosecute any and all repairs to the Federal project works being operated and maintained by the District which are necessary for the proper care, operation, and maintenance in accordance with paragraph a. immediately above. In case of neglect or

failure of the District to commence such repairs within 45 days following written notification and to complete such repairs within a reasonable time, the Contracting Officer may cause the repairs to be made, and the cost thereof shall be paid by the District as prescribed by the Contracting Officer.

c. No substantial change shall be made by the District in any of the major transferred District works without first obtaining written consent of the Contracting Officer. The request for said change shall be made in writing and include a detailed design of the contemplated work. If the Contracting Officer does not reject such change within 60 days, the District may proceed with the work. Substantial change is defined herein as major relocations or major changes in structures and facilities.

d. The District shall hold the United States, its officers, agents, and employees harmless as to any and all damages which may in any manner grow out of the care, operation, and maintenance by the District of any of the project works transferred to the District.

e. If, during the period of any District indebtedness to the United States for construction or rehabilitation of the project or District works, should the District become more than 60 days delinquent in the payment of any amount due on said indebtedness, then at election of the Contracting Officer, the United States may take over from the District the care, operation, and maintenance of such transferred works by

giving written notice to the District of such election any of the effective date thereof and retain the same until such indebtedness is brought current by the District.

* * * * *

IN WITNESS WHEREOF, this contract has been executed as of the day and year first hereinabove written.

THE UNITED STATES OF AMERICA
WATER AND POWER RESOURCES SERVICE

By: /s/ ROBERT H. WEIMER
ROBERT H. WEIMER
Contracting Officer

Attest: EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1

_____ By: /s/ JACK H. STALLINGS
JACK H. STALLINGS
President

/s/ JOHNNY STUBBS
JOHNNY STUBBS
Secretary of the El Paso
County Water Improvement
District No. 1

APPENDIX B

Contract No. 6-LM-40-01250

DEED WITHOUT WARRANTY

THE UNITED STATES OF AMERICA ("Grantor"), acting by and through the Bureau of Reclamation, Department of the Interior, pursuant to the provisions of the Act of June 17, 1902 (38 Stat. 388), and acts amendatory thereof or supplementary thereto, particularly Title XXXIII of the Act of October 30, 1992 (Public Law 102-575), hereby grants and conveys, for good and valuable consideration, to EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 ("Grantee"), a political subdivision of the State of Texas existing pursuant to Article XVI, Section 59, of the constitution of the State of Texas whose address is 294 Candelaria, El Paso, Texas 79907, the easements, ditches, laterals, canals, drains, and other rights-of-way listed on Exhibit "A", attached hereto and made a part hereof, together with the improvements and appurtenances, if any, used or constructed by Grantor, known as the irrigation facilities of the Rio Grande Project, located in El Paso County, Texas, as shown and described on the maps and plats of Grantor which are now located in Grantor's office in El Paso, El Paso County, Texas, possession of which maps and plats is being delivered to Grantee simultaneously with the execution and delivery by Grantor of this Deed Without Warranty, reference to such maps and plats being

here made for a complete description and for all purposes and copies of some of Grantor's maps, called Irrigable Land Area Maps, being attached hereto to further assist in the identifications of the Property conveyed hereby.

TOGETHER WITH a perpetual easement in the land presently utilized for the Franklin Canal from the settling basin adjacent to the International Dam to the beginning of the Chamizal project identified by point A adjacent to the Leon Street wasteway for a canal subject to the Grantor's superior right to place the Rio Grande American Canal Extension in that location in accordance with the terms of Public Law No. 101-438 and the Agreements between the United States Section, International Boundary and Water Commission, United States and Mexico (USIBWC) and the El Paso County Water Improvement District No. 1 (EPCWID#1), USIBWC Nos. IBM-93-10 and IBM-93-20 both dated March 23, 1994.

TOGETHER WITH lands and facilities of the Rio Grande Project which are commonly referred to as the Ysleta Yard, including all improvements located thereon or used in connection therewith and described more specifically and identified on Exhibit "B" attached hereto and made a part hereof.

TOGETHER WITH the property more specifically described on Exhibit "C" attached hereto and made a part hereof.

TOGETHER WITH A perpetual easement to utilize that portion of the Riverside Diversion Dam located in the United States for the purpose of diverting and transporting irrigation water.

TOGETHER WITH the perpetual easement reserved to Grantor for the benefit of Grantee in that certain Quitclaim Deed, Contract No. 6-LM-40-01260, dated January 19, 1996, between the United States of America as Grantor and the Elephant Butte Irrigation District as Grantee.

TOGETHER WITH all right, title, and interest of Grantor, not expressly reserved herein, in any and all easements, ditches, laterals, canals, drains, and other rights-of-way which the United States has acquired in El Paso County, Texas, on behalf of the Rio Grande Project, that are used solely for the purpose of serving the Grantee's lands (those irrigable lands located within the boundaries of Grantee's District) and which the Secretary determines are necessary to enable the Grantee to carry out operation and maintenance with respect to that portion of the Rio Grande Project located in El Paso County, Texas, whether obtained or claimed by Grantor by express grant, adverse possession, court judgment, or otherwise.

All of the above is hereinafter collectively referred to as the "Property".

BUT EXCEPTING AND RESERVING FROM THIS CONVEYANCE, unto Grantor, its heirs and assigns forever:

1) A perpetual easement to Grantor in and to the ditches, laterals, canals, sublaterals, drains, spillways, and right-of-ways or any other facilities in the State of Texas which are presently in use, directly or indirectly, or of any other facility which may be necessary for transportation of any Rio Grande Project water released from Elephant Butte Dam or Caballo Dam for use by Elephant Butte Irrigation District for storage or delivery in or through any such facility, this easement to be exercised in accordance with that certain Agreement made and entered into the 9th day of August, 1995, pursuant to the Joint Powers Agreement Act of New Mexico and the Texas Interlocal Cooperation Act by and between Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1;

2) A temporary easement, to Grantor, not to extend beyond three (3) years from the date of execution of this deed on, over or across all drains outside the City Limits of the City of El Paso, Texas, in El Paso's Lower Valley, for the purpose of performing such construction, reconstruction, or rehabilitation work of the irrigation system as, Grantor, in its sole discretion, may deem necessary;

3) Any water or water rights of Grantor whatsoever; and

4) A perpetual easement to the Grantor to come upon the property, after reasonable notice to the Grantee, to obtain water samples and perform such other minor testing as may be required for the administration and operation of the Rio Grande Project.

THIS CONVEYANCE IS SUBJECT TO oil, gas, and other mineral rights heretofore reserved of record by or in favor of third parties; ALSO SUBJECT TO permits, licenses, leases, rights-of-use, or rights-of-way of record outstanding in third parties on, over, or across said lands or facilities, save and except any permit, license, or other rights, if any, granted in, over, or in connection with Ascarate Wasteway to Chevron U.S.A., Chevron Pipe Line Company, or their assigns, unless and until such permit, license, or other right shall have been finally upheld through the appeals process, Grantee reserving the right to contest, appeal or otherwise legally challenge the validity of any such permit, license, or other right. Benefits, payments, and responsibilities of Grantor arising after the date of this deed under such existing rights-of-use, and defined in 43 CFR 429, shall inure to benefit of and be binding upon Grantee.

TO HAVE AND TO HOLD unto Grantee, and Grantee's successors and assigns, the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, forever. This

Deed Without Warranty is given and accepted without any warranty of title.

NOTICE IS HEREBY GIVEN that:

1) Acting pursuant to the requirements of 40 CFR 373, on July 23, 1993, Grantor performed a hazardous waste survey of the lands and facilities herein conveyed, and a copy of said survey was delivered to Grantee in a letter dated July 7, 1995. The lands and facilities conveyed herein to Grantee are being conveyed in the same condition as existed on the date of said survey and which condition is more particularly described in that survey. No remediation by Grantor on behalf of Grantee has been or will be made.

2) Grantee has used these facilities for decades and has had operation and maintenance responsibility for nearly twenty years and accepts these facilities "as is" and also accepts any liability accruing hereafter as a result of the ownership, operation or maintenance of the property and subject to applicable state and Federal law.

No perpetual easement granted herein creates any obligation on the part of the Grantee to operate or maintain any bridges or other structures owned by the United States, and the Grantee acknowledges that this perpetual easement shall not be exercised in such a manner as to unreasonably interfere with the operations of the United States or its agencies.

Notwithstanding anything to the contrary, nothing in this deed shall be construed to affect in any fashion the claims of the parties including those claims asserted in that action styled ELEPHANT BUTTE IRRIGATION DISTRICT OF NEW MEXICO and EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 OF TEXAS v. UNITED STATES DEPARTMENT OF INTERIOR, et al., Civil No. CIV-90-95 HB/WWD.

Notwithstanding the foregoing, no breach of any condition or agreement herein shall be deemed to be a failure of consideration or entitle Grantor to rescind this Deed Without Warranty.

If any further specific conveyances should be necessary hereafter, because of the discovery of additional Property of the Rio Grande Project in El Paso County, Texas, not listed on the Exhibits or to more specifically and legally describe the Property, then Grantor shall make reasonable efforts to provide such conveyances, on the same terms and conditions set forth hereinabove.

WITNESS the hand of said Grantor this 19th day of January, 1996.

UNITED STATES OF AMERICA

/s/ CHARLES A. CALHOUN
CHARLES A. CALHOUN
Regional Director
Department of Interior

Bureau of Reclamation
Upper Colorado Region
Salt Lake City, Utah,
acting for the Secretary
of Interior of the United States

RSO APPROVED

/s/ CHRISTOPHER B. RICH
CHRISTOPHER B. RICH

ACKNOWLEDGMENT

State of Utah)
County Salt Lake) ss.
)

On the 19th day of January, 1996, personally appeared before me Charles A. Calhoun, known to me to be the Regional Director of the Bureau of Reclamation, Upper Colorado Region, United States Department of the Interior, the signer of the above instrument, who duly acknowledged to me that he executed the same on behalf of THE UNITED STATES OF AMERICA pursuant to authority delegated to him from the Secretary of the Interior.

/s/ DEBORAH L. LAWLER
DEBORAH L. LAWLER
Notary Public in and for
the State of Utah

(NOTARY SEAL)

[SEAL OMITTED]

ACCEPTANCE

The parties intend for the above Deed Without Warranty to satisfy the terms of Title XXXIII of Public Law 102-575. Grantee accepts this Deed Without Warranty on the terms and conditions stated therein.

EL PASO COUNTY WATER
IMPROVEMENT DISTRICT NO. 1

By: /s/ JOHNNY STUBBS
JOHNNY STUBBS

Title: president

ATTEST:

By: /s/ INDAR SINGH
INDAR SINGH

Title: Secretary

(DISTRICT SEAL)

ACKNOWLEDGEMENT

State of)

County of)

)

On this 22nd day of January, 1996, before me, the undersigned officer, personally appeared Johnny Stubbs RW, to me known and known to me to be the same person whose name is subscribed to the foregoing acceptance, who being by me duly sworn did depose and say that he is the President of the EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1, that he is duly designated, empowered, and authorized by a resolution adopted by the Board of Directors of the EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1, on January 22, 1996, to execute the foregoing acceptance and sign his name thereto, and that he signed his name thereto and acknowledges that he executed the foregoing instrument for and on behalf of the EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 for the purposes and uses therein described.

/s/ ROSALINDA WATERS
ROSALINDA WATERS
Notary Public in and for
the State of

(NOTARY SEAL)

[SEAL OMITTED]

EXHIBIT "A" TO DEED WITHOUT WARRANTY FOR EPCWID#1

CANALS	LATERALS	DRAINS	WASTEWAYS
	ALFALFA	ANTHONY ANTHONY SPUR ALAMO ALTO	ASCARATE
	BAKER BARRIAL BERNAL BOYER BOWMAN	BORDER BORDER INTERCEPTING BORDER SPUR 1&2 BORDERLAND SPUR	BERNAL LATERAL WW BORDERLAND SPUR DRAIN WW
CANUTILLO	CANAS ARRIAS CANUTILLO CINECUE CLINT EXTENSION CLINT COFFIN COOK-SCHULTZ CRISMORE (AKA S-379) CUADRILLA C-1 (AKA COLER)	CENTRAL CENTRAL SPUR CLINT SPUR COOK INTERCEPTING CRAWFORD SPUR CUADRILLA INTERCEPTING	CRISMORE LATERAL WW CLINT LATERAL WW #1,2
	DAUGHERTY DEL MONTE DE GROFF (AKA YSLA-147)	DOLAN DOLAN SPUR DORROUGH SPUR DORROUGH DUCKETT INTERCEPTING DUCKETT SPUR	
	ELLIS ESCAVEDA	EAST	
FRANKLIN; ONLY THAT PORTION RUNNING EASTERLY FROM THE CENTERLINE OF 2nd STREET TO THE END FRANKLIN FEEDER	FARM DETENTION FARM SPILLWAY	FABENS FABENS INTERCEPTING FRANKLIN FRANKLIN INTERCEPTING FRANKLIN SPUR FABENS WASTE CHANNEL	FRANKLIN CANAL
	GLARDON GRANDVIEW GREEN GUADALUPE LAT. & LAT. EXTENSION GUADALUPE INTERCEPTING		GREEN LATERAL WW GRANDVIEW LAT. WW GUADALUPE EXT. LAT. WW GUADALUPE INT. LAT. WW

EXHIBIT "A" TO DEED WITHOUT WARRANTY FOR EPCWID#1

CANALS	LATERALS	DRAINS	WASTEWAYS
HUSPETH FEEDER #1 HUSPETH	HALL HANSEN HIGHBANK HANSEN FEEDER	HANSEN INTERCEPTING HANSEN FEEDER INTERCEPTING	
ISLAND MAIN ISLAND FEEDER	I-72 (AKA ISLAND) I-136 " " I-154 " " I-206 " " I-207 " " I-243 " " I-270 " " I-341 " " IF-57 (AKA ISLAND FEEDER) IRWIN ISLAND MAIN I-O (AKA ISLAND)	ISLAND ISLAND SPUR ISLAND FARMERS I-T SYPHON (AKA ISLAND TORNILLO) I-F ISLAND FEEDER INTERCEPTING ISLAND CONNECTION ISLAND DRAIN SYPHON	I-206 ISLAND LAT. WW I-243 ISLAND LAT. WW ISLAND FEEDER WW
	JORNADO JUAN DE HERRERA "A" JUAN DE HERRERA "B" JUAN DE HERRERA "C" JUAN DE HERRERA MAIN	KELLY INTERCEPTING	
LA UNION EAST	LA UNION EAST LA UNION WEST LA UNION COMBINED LEE LOWENSTEIN	LAKE SPUR LEE MOOR INTERCEPTING	LEON STREET WW
	MONTOYA MAIN MONTOYA "A" MONTOYA "B" MONTOYA "C" MONTOYA "D" MALONE MADRE	MONTOYA MESA MESA SPUR 1&2 MIDDLE MESA OUTLET	
	NEWMAN NORTHSIDE	NEMEXAS	
	ORR	ORR'S SPUR (AKA ORR'S)	
	PENCE PLAYA	PEREZ SPUR PLAYA PLAYA INTERCEPTING PLAYA INTERCEPTING "A"	

EXHIBIT "A" TO DEED WITHOUT WARRANTY FOR EPCWID#1

CANALS	LATERALS	DRAINS	WASTEWAYS
	QUEMADA		
RIVERSIDE RIVERSIDE EXTENSION	RIVER RIVERSIDE RODRIGUENA ROWLEY RIO	RIVER RIVER OUTLET RIVER SPUR RIVERSIDE INTERCEPTING & EXTENSION RIO INTERCEPTING RIVER SPUR #1	RODRIGUENA LATERAL WW RIVERSIDE CANAL WW RIVERSIDE CANAL INTAKE STRUCTURE
SOUTHSIDE FEEDER	SOUTHSIDE FEEDER SOUTHSIDE SOCORRO STEVENS SCHUTZ SAN ELIZARIO SALITRAL S-379 (AKA CRISMORE) S- IS NOT SALITRAL	SAN FELIPE ARROYO SOCORRO INTERCEPTING SEGUILA INTERCEPTING	SAN ELIZARIO WW # 1 SOCORRO LATERAL WW SALITRAL LATERAL WW
TORNILLO	TEXAS T-216 (AKA TORNILLO) T-520 " " THREE SAINTS EAST THREE SAINTS T-131 (AKA TORNILLO) T-462 " " T-217 " "	TORNILLO TORNILLO SPUR THOMPSON SPUR TORNILLO OUTLET TORNILLO INTERCEPTING #1,2,3	T-131 (AKA TORNILLO) LATERAL WW TORNILLO CANAL WW T-520 LATERAL WW
	UPPER CLINT	UPPER TORNILLO	UPPER CLINT LATERAL WW
	VALLEY GATE VINTON VINTON RIVER VINTON CUTOFF	VINTON VINTON RIVER VALLEY GATE INTERCEPTING VALLEY GATE SPUR	
	WADLINGTON WEBB	WARNOCK SPUR WEST	WASTEWAY #35C,#35,33B,35A,34 37,32A,29,23A, 1&2
	Y-65 (AKA YSLA) Y-147 (AKA YSLA), (AKA DE GROFF) Y-197 (AKA YSLA) Y-303 " " YSLA YSLA EXTENSION Y-251 (AKA YSLA)		YSLA LATERAL WW Y-303 (AKA YSLA) LATERAL WW Y-147 (AKA YSLA) LATERAL WW YSLA EXTENSION LATERAL WW
	ZACK		

82989

BOOK 596 PAGE 379

WARRANTY DEED.

EXHIBIT B

THE STATE OF TEXAS |
COUNTY OF EL PASO |

KNOW ALL MEN BY THESE PRESENTS: Charles B. Caal and George W. Caal, individually and as Independent Executors of the Estate of I. G. Caal, deceased, Frank Felix Caal and Lillian M. Eden, a single woman, of the County of El Paso, State of Texas, in consideration of the sum of Three Hundred Fifty Dollars ($350.00) Dollars, to us in hand paid by The United States of America, pursuant to the Act of June17, 1902 (32 Stat. 388) and acts amendatory thereof and supplementary thereto, the receipt of which is hereby acknowledged, have granted, sold and conveyed and by these presents do grant, sell and convey unto the said The United States of America, all that certain tract or parcel of land, lying in the County of El Paso and State of Texas, and more particularly described as follows, to wit:

A tract of land included in a tract of land lying and situate in the Ysleta Grant, El Paso County, Texas, in the North half Northeast quarter (N½NE¼) Section Thirty five (35) Township Thirty one (31) South, Range six (6) East, Bureau of Reclamation Survey, being also within Tract ten (10) Block forty six (46) as shown on plat of official resurvey of the Ysleta Grant as accepted by the Commissioner's Court of El Paso County, Texas the 8th day of February, 1932, and of record in the office of the County Clerk of said County and State, being more particularly described as follows:

Beginning at the point of intersection of the Easterly right of way line of Sacramento Street and the Southeasterly right of way line of a road parallel and adjacent to the G.H. & S.A. R.R. Depot Grounds, said point of beginning being the North corner of a tract of land heretofore conveyed to the United States of America by I. G. Caal et al; thence South forty five degrees (45°) nine minutes (09') East along the Southeasterly right of way line of road adjacent to the G.H. & S.A. R.R. Depot Grounds six hundred thirty eight and eight tenths (638.8) feet to a point from which the East corner tract ten (10) block forty six (46) of the resurvey of the Ysleta Grant bears South forty five degrees (45°) nine minutes (09') East twenty one and eight tenths (21.8) feet; thence South twenty one degrees (21°) thirty one minutes (31') West one hundred eighty four and fifteen hundredths (184.15) feet; thence North forty five degrees (45°) nine minutes (9') West six hundred forty three and eighty eight hundredths (643.88) feet to a point on the Easterly right of way line of Sacramento Street; thence North twenty two degrees (22°) fifty nine minutes (59') East along said street line one hundred eighty two and two tenths (182.2) feet to the point of beginning, said tract of land containing two and five tenths (2.5) acres more or less, of which one and five tenths (1.5) acres is the property of the United States of America and the remainder or one (1) acre is the part herein intended to be conveyed, all as shown on plat attached to contract dated January 21st, 1938, between ourselves as vendors and the United States of America as vendee, of record in the Deed Records of El Paso County, in Volume 598, page 136.

TO HAVE AND TO HOLD the above described premises, together with all and singular, the rights and appurtenances thereto in any wise belonging, unto the said The United States of America, its successors and assigns forever; and we do hereby bind ourselves, our heirs, executors and administrators and successors, to warrant and forever defend all and singular, the said premises unto the said The United States of America, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or

Correct as to Mgr. Data:

TRUE AND CORRECT COPY OF THE ORIGINAL RECORD FILED IN EL PASO COUNTY, TEXAS
HECTOR ENRIQUEZ JR., COUNTY CLERK

EXHIBIT D

any part thereof.

WITNESS our hands at El Paso, Texas, this 8th day of April, A. D., 1935.

One 80¢ Doc. Rev. Stamp,
Cancelled: C.B.G. G.W.G. L.M.G. F.F.G.
4/8/35.

Charles B. Gaal,

George W. Gaal,
Individually and as Independent
Executors of the Estate of
I. G. Gaal, Deceased.

Lillian M. Eden.

Frank Felix Gaal.

THE STATE OF TEXAS |
COUNTY OF EL PASO | BEFORE ME, Geo. W. Hoadley, a Notary Public, in and for El Paso County, Texas, on this day personally appeared Charles B. Gaal and George W. Gaal, Individually and as Independent Executors of the Estate of I. G. Gaal, Deceased, Frank Felix Gaal and Lillian M. Eden, a single woman, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed, and in the capacities therein stated.

GIVEN under my hand and seal of office, this 9th day of April, A. D., 1935.

(Notarial Seal: County of El Paso, Texas.)

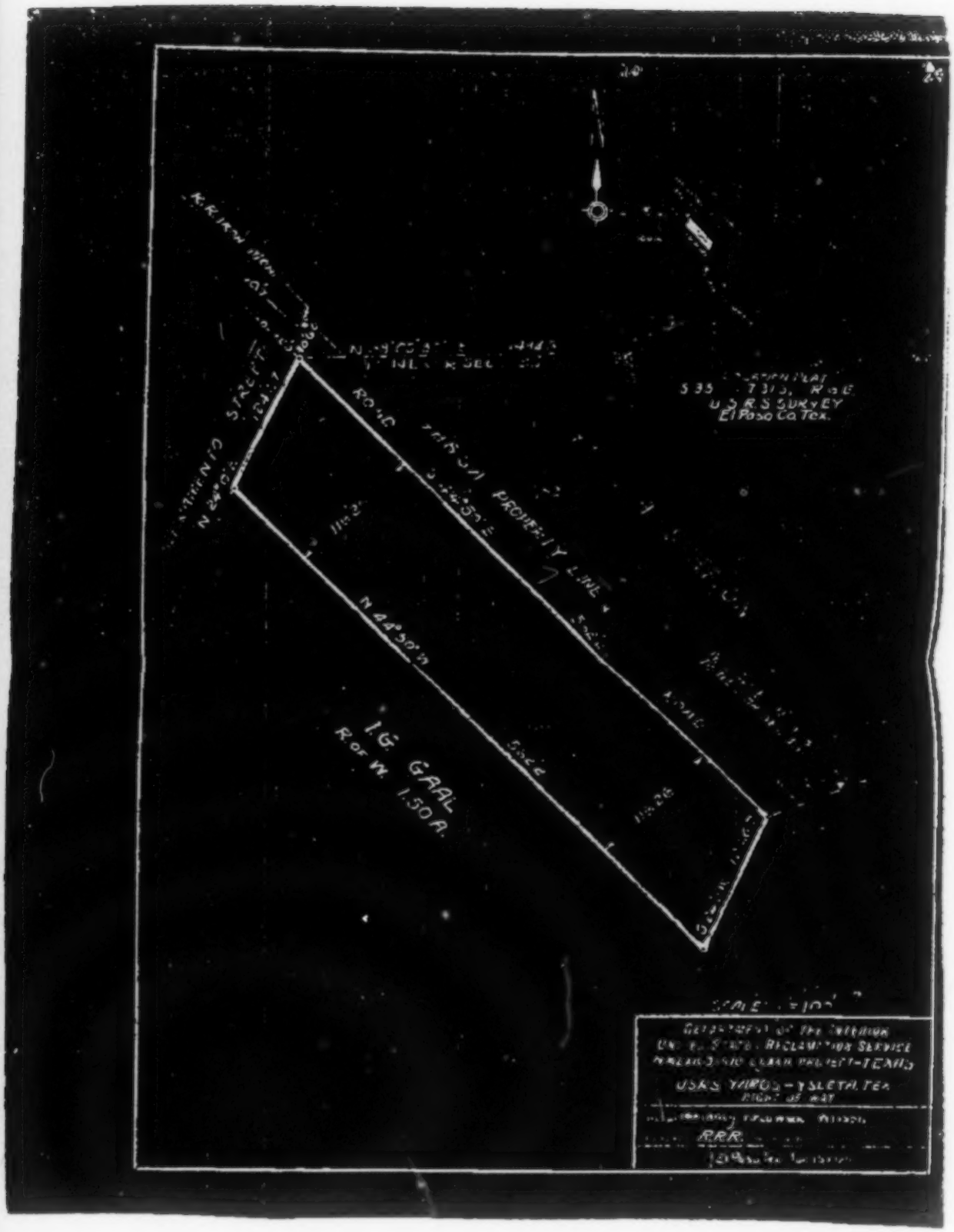
Geo. W. Hoadley,
Notary Public, in & for
El Paso Co., Texas.

A true and correct copy I do hereby certify.
El Paso, Texas
1-11-35
VICTOR ENRIQUEZ, JR.
County Clerk—El Paso Co., Texas
By
Deputy

Filed for Record Apr. 11, 1935 at 4:35 P. M. | W. D. GREET, County Clerk.
And Recorded Apr. 13, 1935 at 9:00 A. M. | By [signature] Deputy.

-3006-

[illegible]


N.K.R.I.D. MAIN CANAL
SANTA FE STREET
ROAD
N 24°E
N 44°30'W
I.G. GAAL
R of W 1.50 A.
S 33
T 31 S., R 6 E
U.S.R.S. SURVEY
El Paso Co. Tex.
SCALE 1"=100'
RRR

WARRANTY DEED, SINGLE AND WIFE'S SEPARATE ACKNOWLEDGMENT No. 38-A

EXHIBIT B

THE STATE OF TEXAS,
COUNTY OF EL PASO.

Know all men by these presents:

Charles H. Geal and George W. Geal, individually and as Independent Executors of the Estate of I. G. Geal, deceased, Frank Felix Geal and Lillian M. Kies, a single woman

of the County of El Paso, State of Texas, in consideration of the sum of Three Hundred Fifty Dollars ($350.00) - - -

EXHIBIT B

SINGLE ACKNOWLEDGMENT.

THE STATE OF TEXAS,
County of El Paso.

Before me Geo. F. Dunlap, a Notary Public in and for El Paso County, Texas, on this day personally appeared Charles B. Coal and George V. Coal Individually and as Independent Executors of the Estate of I.B.Coal, deceased, Frank Felix Coal, and Lillian M. Biss, a single woman known to me to be the person S whose name S are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed. In the capacities therein stated.

Given under my hand and seal of office this 9th day of April A. D. 19 35

Geo. F. Dunlap

(SEAL) Notary Public in and for El Paso County, Texas.

WIFE'S SEPARATE ACKNOWLEDGMENT.

THE STATE OF TEXAS,
County of El Paso.

Before me

in and for El Paso County, Texas, on this day personally appeared wife of known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same by me fully explained to her, she, the said acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office this day of A. D. 19

CLERK'S CERTIFICATE

THE STATE OF TEXAS,
County of El Paso.

I, W. D. Grant, Clerk of the County Court of said County, do hereby certify that the above instrument of writing, dated on the 9th day of April A. D. 19 35, with its certificate of authentication, was filed for record in my office this 11 day of Apr. A. D. 19 35, at 4:35 o'clock P. M. and duly recorded the 12 day of Apr. A. D. 19 35 at 9:00 o'clock A. M. in the records of said County, in Volume 566 on Pages 278

Witness my hand and the seal of the County Court of said County, at office in El Paso, Texas, the day and year last above written.

W. D. Grant
Clerk County Court, El Paso County, Texas.

By A. A. Dehoney Deputy

Frank Felix Coal) Ind. &
George V. Coal) Ex'rs.
Chas. B. Coal)
Estate of I. B. Coal, dec'd

TO

Lillian M. Biss

U. S. of A.

Warranty Deed

Filed for Record the 11th day of Apr. 1935

4 o'clock and 35 minutes P.M.

Clerk, El Paso County, Texas

Deputy

Grant

Spencer

566

278/35

278

QUIT-CLAIM DEED, Single and Wife's Rep. Acts. Rittle Bros. Printing Co., El Paso

EXHIBIT B

THE STATE OF TEXAS }
COUNTY OF EL PASO. } KNOW ALL MEN BY THESE PRESENTS: THAT

We, Chas. B. Gaal, Frank F. Gaal, Geo W. Gaal, and Lillian M. Eden, all married

of the County of El Paso, State of Texas, for and in consideration of the sum of One and 0/100 ($1.00) DOLLARS,

to us in hand paid by the United States of America, pursuant to the Act of Congress dated June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto,
of the County of _____ and _____ of _____, the receipt whereof is hereby acknowledged, do by these presents Bargain, Sell, Release and Forever Quit-Claim, unto the said

the United States of America, its successors or

~~heirs and~~ assigns all our right, title and interest in and unto that tract or parcel of land lying in the County of El Paso, and State of Texas, described as follows, to-wit:

A tract of land situated in the town of Ysleta, El Paso County, Texas, in the north half of the northeast quarter (N½NE¼) of section thirty-five (35), township thirty-one (31) south, range six (6) east, United States Reclamation Servide survey, more particularly described as follows: Beginning at the most northerly corner of the land herein described, which is a point at the intersection of the southeasterly right of way line of a county road parallel and adjacent to the G. H. & S. A. R. R. with the southeasterly line of Sacramento street, from which point the northeast corner of said section thirty-five (35) beare north 88°08'30" east one thousand four hundred thirty-four and eight-tenths (1434.8) feet; thence south 44°30' east five hundred sixty-two and two-tenths (562.2) feet along right of way line of said county road to a point from which the northeast corner of said section thirty-five (35) beare north 66° 43' east one thousand one hundred twenty-nine and sixty-three hundredths (1129.63) feet; thence south 24°0' west one hundred twenty-four and sixty-seven (124.67) feet; thence north 44°30' west five hundred sixty-two and two-tenths (562.2) feet to a point on southeasterly line of Sacramento street; thence north 24°0' east one hundred twenty-four and sixty-seven hundredths (124.67) feet to point of beginning; said tract of land containing one and fifty-hundredths (1.50) acres, more or less;

TO HAVE AND TO HOLD all ~~my~~ right, title, interest, estate and claim in and to the said premises, together with all and singular, the rights, privileges and appurtenances to the same in any manner belonging, unto the said the United States of America, its successors or

~~heirs and assigns~~ forever.

WITNESS ~~my~~ hand this 1st day of March A. D. 19 21

~~WITNESS my hand and official seal~~

LILLIAN M ~~EDEN~~

Chas B. Gaal

Frank F. Gaal

Geo W Gaal

EXHIBIT B

34823

QUIT-CLAIM DEED

THE STATE OF TEXAS.
COUNTY OF EL PASO.

Before me, Jos U Sweeney, a Notary Public in and for El Paso County, Texas, on this day personally appeared Chas B Gaal, Frank F Gaal, Geo W. Gall, and Lillian M Eden

known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 4th day of Maroh, A. D. 1921

(SEAL) My com exp June 1 1921

JOS U SWEENEY
Notary Public, El Paso Co. Tex.

THE STATE OF TEXAS.
COUNTY OF EL PASO.

Before me, Jos U Sweney, A Notary Public in and for El Paso County, Texas on this day personally appeared Lillian M. Eden wife of William H Eden known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Lillian M. Eden, acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it

Given under my hand and seal of office, this 4th day of Maroh, A. D. 1921

(SEAL)

JOS U SWEENEY
Notary Public El Paso CO. Texas

My com exp June 1 1921

THE STATE OF TEXAS.
COUNTY OF EL PASO.

I, W D Greet Clerk of the County Court of said County, do hereby certify that the above instrument of writing, dated on the 4th day of Mar, A. D. 1921 with its certificate of authentication, was filed for record in my office this 8th day of Mar, A. D. 1921 at 10:05 o'clock A. M. and duly recorded the 15th day of Mar, A.D. 1921, at 3:47 o'clock P. M. in the records of said County, in Volume 367 on Pages 232

Witness my hand and the seal of the County Court of said County, at office El Paso, Texas, the day and year last above written.

(SEAL)

W. D Greet
Clerk County Court, El Paso County, Texas
By L W Amstam, Deputy

EXHIBIT B

THE STATE OF TEXAS.
COUNTY OF EL PASO.

KNOW ALL MEN BY THESE PRESENTS: THAT

I, I. G. Gual, a Widower,

of the County of El Paso, State of Texas for and in consideration of the sum of One and 00/100 ($1.00) - - -

EXHIBIT B

QUIT-CLAIM DEED

Single and Wife's Separate Acknowledgments

TO

Filed for record this ... day of ... o'clock ... minutes ... M. ... Clerk ... By ... Deputy

THE STATE OF TEXAS }
COUNTY OF EL PASO. } BEFORE ME, L. A. Foix J.P. and ex officio Notary Public in and for El Paso County, Texas, on this day personally appeared I. G. Gael known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 17 day of June A. D., 19 20

(Notarial Seal)

L. A. Foix J.P. and ex officio
Notary Public, El Paso County, Texas.

THE STATE OF TEXAS.
COUNTY OF EL PASO.

Before me, ... in and for El Paso County, Texas, on this day personally appeared ... wife of ... known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same by me fully explained to her, she, the said ... acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office, this ... day of ... A. D. 19...

THE STATE OF TEXAS }
COUNTY OF EL PASO. }

I W D Groet Clerk of the County Court of said County, do hereby certify that the above instrument of writing, dated on the 17th day of June A. D. 19 20 with its certificate of authentication, was filed for record in my office this 28 day of June, A. D. 19 20, at 3:30 o'clock P M and duly recorded the 2 day of July, A. D. 19 20, at 3:00 o'clock P M in the records of said County, in Volume 350 on Pages 586

Witness my hand and the seal of the County Court of said County, at office El Paso, Texas, the day and year last above written.

W D GREET
Clerk County Court, El Paso County, Texas.
By L. V. Amador, Deputy.

EXHIBIT B

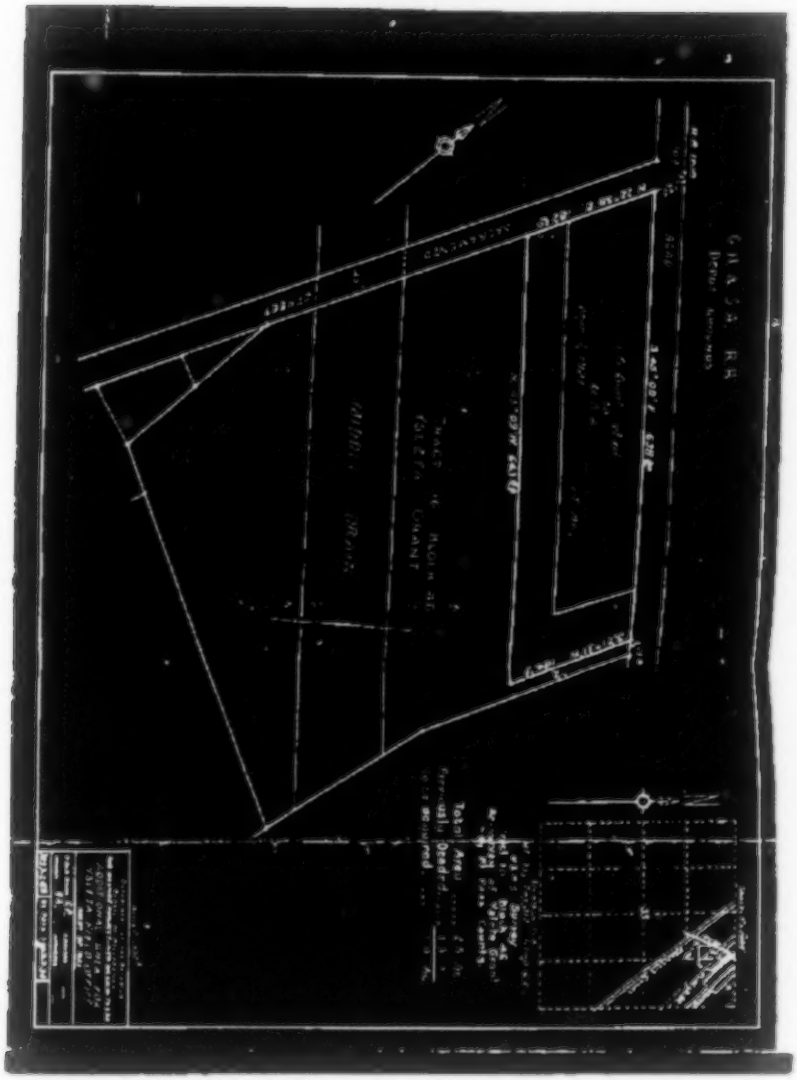


EXHIBIT B

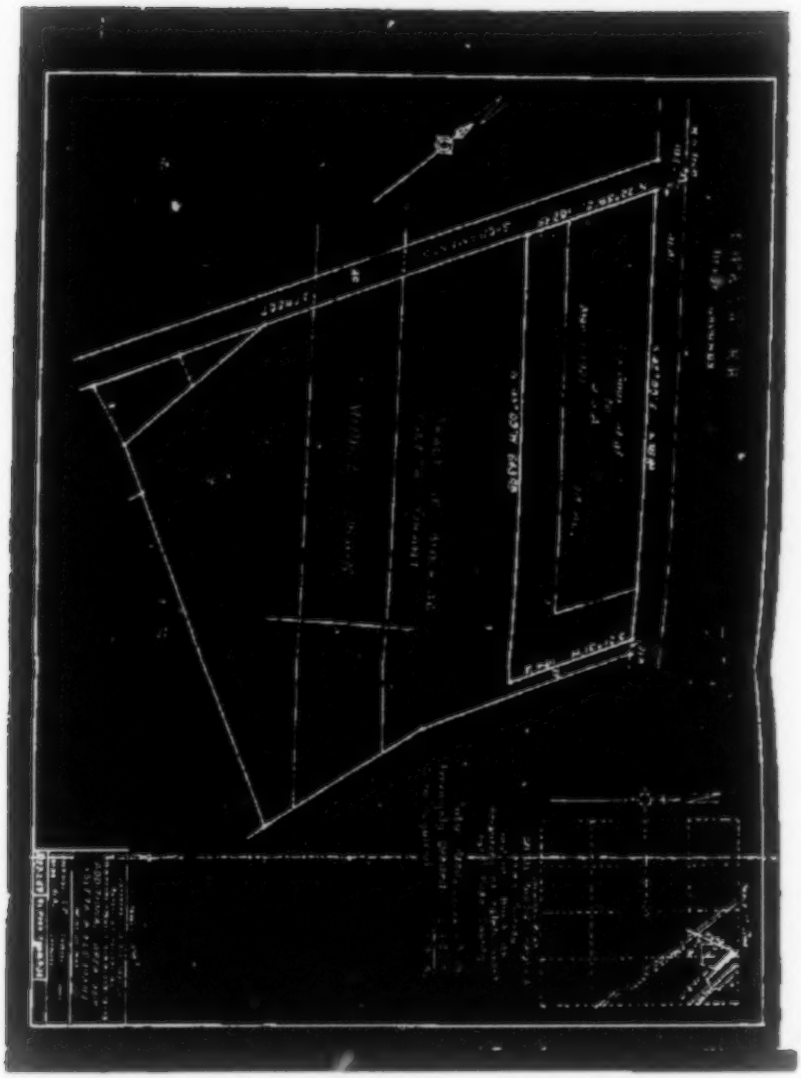


EXHIBIT C

All of those properties described in the following documents and condemnation proceedings, reference to which documents and condemnation proceedings and their places of public record being here made for a complete description, to wit:

1) Land Purchase Contract dated March 17, 1927, signed by I. G. Gaal, et al., recorded April 11, 1927, in Volume 475, Page 611, of the deed records of El Paso County, Texas.

2) Warranty Deed dated August 20, 1918, signed by I. G. Gaal, et al., recorded February 7, 1919, in Volume 169, Page 486, of the deed records of El Paso County, Texas.

3) Warranty Deed dated June 3, 1927, signed by I. G. Gaal, et al., recorded June 8, 1927, in Volume 474, Page 225, of the deed records of El Paso County, Texas.

4) Warranty Deed dated June 3, 1927, signed by I. G. Gaal, et al., recorded June 8, 1927, in Volume 474, Page 230, of the deed records of El Paso County, Texas.

5) Land Purchase Contract dated May 16, 1927, signed by F. G. Alderete, recorded August 1, 1927, in Volume 479, Page 278, of the deed records of El Paso County, Texas.

6) Condemnation of property from J.A. Marquez, dated July 12, 1927.

7) Warranty Deed dated July 12, 1929, signed by I. G. Gaal, recorded August 6, 1929, in Volume 514, Page 591, of the deed records of El Paso County, Texas. Texas